

PART 2700—PROCEDURAL RULES

Subpart A—General Provisions

- Sec.
2700.1 Scope; applicability of other rules; construction.
2700.2 Definitions.
2700.3 Who may practice.
2700.4 Parties, intervenors, and amici curiae.
2700.5 General requirements for pleadings and other documents; status or informational requests.
2700.6 Signing of documents.
2700.7 Service.
2700.8 Computation of time.
2700.9 Extensions of time.
2700.10 Motions.
2700.11 Withdrawal of pleading.
2700.12 Consolidation of proceedings.

Subpart B—Contests of Citations and Orders

- 2700.20 Notice of contest of a citation or order issued under section 104 of the Act.
2700.21 Effect of filing notice of contest of citation or order.
2700.22 Notice of contest of imminent danger withdrawal orders under section 107 of the Act.
2700.23 Review of a subsequent citation or order.
2700.24 Emergency response plan dispute proceedings.

Subpart C—Contests of Proposed Penalties

- 2700.25 Proposed penalty assessment.
2700.26 Notice of contest of proposed penalty assessment.
2700.27 Effect of failure to contest proposed penalty assessment.
2700.28 Filing of petition for assessment of penalty with the Commission.
2700.29 Answer.
2700.30 Assessment of penalty.
2700.31 Penalty settlement.

Subpart D—Complaints for Compensation

- 2700.35 Time to file.
2700.36 Contents of complaint.
2700.37 Answer.

Subpart E—Complaints of Discharge, Discrimination or Interference

- 2700.40 Who may file.
2700.41 Time to file.
2700.42 Contents of complaint.
2700.43 Answer.
2700.44 Petition for assessment of penalty in discrimination cases.
2700.45 Temporary reinstatement proceedings.

Subpart F—Applications for Temporary Relief

- 2700.46 Procedure.
2700.47 Contents of application.

Subpart G—Hearings

- 2700.50 Assignment of Judges.
2700.51 Hearing dates and sites.
2700.52 Expedition of proceedings.
2700.53 Prehearing conferences and statements.
2700.54 Notice of hearing.
2700.55 Powers of Judges.
2700.56 Discovery; general.
2700.57 Depositions.
2700.58 Interrogatories, requests for admissions and requests for production of documents.
2700.59 Failure to cooperate in discovery; sanctions.
2700.60 Subpoenas.
2700.61 Name of miner informant.
2700.62 Name of miner witness.
2700.63 Evidence; presentation of case.
2700.64 Retention of exhibits.
2700.65 Proposed findings, conclusions and orders.
2700.66 Summary disposition of proceedings.
2700.67 Summary decision of the Judge.
2700.68 Substitution of the Judge.
2700.69 Decision of the Judge.

Subpart H—Review by the Commission

- 2700.70 Petitions for discretionary review.
2700.71 Review by the Commission on its own motion.
2700.72 [Reserved]
2700.73 Procedure for intervention.
2700.74 Procedure for participation as amicus curiae.
2700.75 Briefs.
2700.76 Interlocutory review.
2700.77 Oral argument.
2700.78 Reconsideration.
2700.79 Correction of clerical errors.

Subpart I—Miscellaneous

- 2700.80 Standards of conduct; disciplinary proceedings.
2700.81 Recusal and disqualification.
2700.82 Ex parte communications.
2700.83 Authority to sign orders.

AUTHORITY: 30 U.S.C. 815, 820, 823, and 876.

SOURCE: 58 FR 12164, Mar. 3, 1993, unless otherwise noted.

Subpart A—General Provisions

§ 2700.1 Scope; applicability of other rules; construction.

- (a) *Scope.* (1) This part sets forth rules applicable to proceedings before

§ 2700.2

the Federal Mine Safety and Health Review Commission (“the Commission”) and its Administrative Law Judges. The Commission is an adjudicative agency that provides administrative trial and appellate review of legal disputes arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq. (“the Act”). The Commission is an independent agency, not a part of nor affiliated in any way with the U.S. Department of Labor or its Mine Safety and Health Administration (“MSHA”). The location of the Commission’s headquarters is at 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001; its primary phone number is 202-434-9900; and the fax number of its Docket Office is 202-434-9954. The Commission maintains a Web site at <http://www.fmshrc.gov> where these rules, recent and many past decisions of the Commission and its Judges, and other information regarding the Commission, can be accessed.

(2) Unless the Commission provides otherwise, amendments to these rules are effective 60 days following publication in the FEDERAL REGISTER, and apply to cases initiated after they take effect. They also apply to further proceedings in cases pending on the effective date, except to the extent that application of the amended rules would not be feasible, or would work injustice, in which event the former rules of procedure would continue to apply.

(b) *Applicability of other rules.* On any procedural question not regulated by the Act, these Procedural Rules, or the Administrative Procedure Act (particularly 5 U.S.C. 554 and 556), the Commission and its Judges shall be guided so far as practicable by the Federal Rules of Civil Procedure and the Federal Rules of Appellate Procedure.

(c) *Construction.* These rules shall be construed to secure the just, speedy and inexpensive determination of all proceedings, and to encourage the participation of miners and their representatives. Wherever the masculine gender is used in these rules, the feminine gender is also implied.

[58 FR 12164, Mar. 3, 1993, as amended by 71 FR 44206, Aug. 4, 2006]

29 CFR Ch. XXVII (7–1–09 Edition)

§ 2700.2 Definitions.

For purposes of this part, the definitions contained in section 3 of the Act, 30 U.S.C. 802, apply.

§ 2700.3 Who may practice.

(a) *Attorneys.* Attorneys admitted to practice before the highest court of any State, Territory, District, Commonwealth or possession of the United States are permitted to practice before the Commission.

(b) *Other persons.* A person who is not authorized to practice before the Commission as an attorney under paragraph (a) of this section may practice before the Commission as a representative of a party if he is:

(1) A party;

(2) A representative of miners;

(3) An owner, partner, officer or employee of a party when the party is a labor organization, an association, a partnership, a corporation, other business entity, or a political subdivision; or

(4) Any other person with the permission of the presiding judge or the Commission.

(c) *Entry of appearance.* A representative of a party shall enter an appearance in a proceeding under the Act or these procedural rules by signing the first document filed on behalf of the party with the Commission or Judge; filing a written entry of appearance with the Commission or Judge; or, if the Commission or Judge permits, by orally entering an appearance in open hearing.

(d) *Withdrawal of appearance.* Any representative of a party desiring to withdraw his appearance shall file a motion with the Commission or Judge. The motion to withdraw may, in the discretion of the Commission or Judge, be denied where it is necessary to avoid undue delay or prejudice to the rights of a party.

[58 FR 12164, Mar. 3, 1993, as amended at 64 FR 48712, Sept. 8, 1999]

§ 2700.4 Parties, intervenors, and amici curiae.

(a) *Party status.* A person, including the Secretary or an operator, who is named as a party or who is permitted to intervene, is a party. In a proceeding